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Title: Unseemly how eager some are to inherit

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Wills lawyer Les Kotzer was glancing out his window when a sports car pulled up and a middle-aged man got out. The man, sporting a full-length mink coat and a Rolex, strolled into Kotzer's office with his wife.

Her tennis bracelet caught the lawyer's eye - largely because its diamonds set off a mini light show.

When the couple told Kotzer they lived in Rosedale, he asked what they did for a living.

"Oh, he's a waiter," said the wife with a laugh.

"What restaurant?" asked a perplexed Kotzer.

"Not that kind of waiter," the wife shot back.

"He's waiting for his inheritance."

The only child was unabashedly banking on the day his parents would die.

At least he was waiting. Increasingly, impatient and overextended baby boomers are looking for ways to cash in before their parents hit the end of the road.

"I get people coming in here asking, 'How fast do I get my inheritance? Can I review my mother's will?' - and she's not even dead yet," Kotzer says. "I'm seeing an explosion of greed and fighting."

Wills and guardianship experts blame this on a perfect storm of demographics - the aged parents are a real-estate rich, postwar generation of savers, many of whom are losing

their mental faculties, making them vulnerable to financial abuse.

"There have always been fights over estates," says Jan Goddard, a lawyer who specializes in elder law. "What's different now is that there are many, many more disputes while the parent is alive."

Last week, Ontario Superior Court Justice David Brown signalled that the courts are losing patience with kids who seem more concerned about cashing in than caring for their ailing parents.

Brown warned three siblings they could be hit with significant court costs if they don't stop dragging their heels fighting over how much they will inherit from their ailing 87-year-old mother, Ida Abrams. In a sad twist, two of the children are trying to wrest control from their 92-year-old father.

"Each, in his own way, has bickered and delayed, leading me to believe that Ida's best interests have been shoved to the back seat whilst other problems amongst these family members have been brought to the fore," Brown said.

In another case now before the courts, three siblings are trying to evict their sister from the family's mid-Toronto home as well as charge her back rent for the years she lived there caring for her sickly mother.

More of these cases are ending up in complaints to Ontario's Office of the Public Guardian and Trustee or in the courts, both of which are struggling to deal with the intricacies of family

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feuds or what may be ulterior motives of the children.

"I call them the unsuccessful adult - the person who never learned to stand on their own two feet and claims to have been the caregiver over time," Goddard says of individuals who argue that such care entitles them to all, or at least a disproportionate amount, of the estate.

"We're seeing more disputes over who has a valid power of attorney (giving them a say over how their parents' money is spent), we're seeing assets put in joint names or out-and-out transferred to a child. We're seeing pilfering - people who take money out of bank accounts or get parents to give them money. We see a lot of what we call 'undue influence.'

"But we're still struggling to figure out how you cope with that when you're talking about a living, breathing person."

Goddard points out that the parent may be dependant on their children for care, no matter how minimal.

Such financial abuse, which estate and trusts specialist Kimberly Whaley describes as "rampant," goes beyond just family.

Whaley has raised a red flag about the growing number of "predatory marriages" that give the new spouse a claim to the estate and de facto financial control. In one case, a 96-year-old woman was preyed upon by a 50-year-old man she met in her apartment building.

In another, a 95-year-old man with advanced Alzheimer disease proposed to several women within hours of his wife's funeral and one took him up on the offer.

Graham Webb, a lawyer with the legal aid clinic Advocacy Centre for the Elderly, says he's seeing

more title fraud by family members, caregivers or even casual acquaintances. In one case, a kitchen contractor persuaded his elderly client to add his name to her house deed, then took out a mortgage on the house.

Webb finds the elderly are often too hasty at signing over power of attorney to a relative or friend because of unrealistic fears they won't be able to handle their own affairs.

He compares signing a power of attorney to getting married - if you're not sure whether you should do it, it's probably not a good idea.

Goddard says Ontario's Substitute Decisions Act has proven ill-equipped to protect the elderly against such abuse, which is on an upswing around the world.

In a case resolved this month, two sisters in Norfolk, England, were accused of plying their frail millionaire father with alcohol and drugs to get him to change his will, which left the family farm to their two brothers. The allegations were rejected but the sisters were left with a joint inheritance of just £15,000 (about \$23,000) - most of which will be eaten up by lawyers' fees.

"The law was meant to protect those with mental illness and dementia - those hermits living in their houses who you see featured on (the TV show) Hoarders," Goddard says. "It pretty much blindsided everyone that what we've ended up seeing is the law being used, and the courts being used, as a forum for high-conflict families."

Susan Pigg focuses on issues around baby boomers and aging. spigg @ thestar.ca.

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